IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Bail Appl..No. 3700 of 2007()

CRIME NO.144/07 OF PARIPPALLY POLICE STATION

PETITIONER/2ND, 3RD & 4TH ACCUSED

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1. SUNIL, S/O.MOANIKANDAN, NJARAKKELVEED, CHIRAKKARA, EDAVATTAM, KALLUVATHUKKAL, KOLLAM DISTRICT.

2. SHAN, S/O.SHASI, SHAN VILASAM, VARINJAM, KALLUVATHUKKAL, KOLLAM DISTRICT.

3. SANTHOSH, S/O.SURENDRAN, VALSALA MANDIRAM, MEVANAKKONAM, KALLUVATHUKKAL, KOLLAM DISTRICT.

BY ADV. SRI.S.M.ALTHAF

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3700 of 2007

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Dated this the 21st day of June, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 2 to 4. Along with A1, they face allegations under Section 326 r/w. 34 I.P.C. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Only two accused persons were named in the F.I.R. The first accused has already surrendered before the learned Magistrate and has been enlarged on bail. The petitioners may not be compelled to endure the undeserved trauma of arrest and detention. Appropriate orders under Section 438 Cr.P.C. may be issued, submits the counsel for the petitioners.

2. The application is opposed. The learned Prosecutor submits that there are no satisfactory reasons to justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. Except that only two persons are unidentified in the F.I.R. and that the allegations are false, no other worthwhile contentions are raised before me by the learned counsel for the petitioners. I am satisfied that this is a fit case where the petitioners must appear before the

Investigating Officer or the learned Magistrate having jurisdiction and then seek bail in the regular and ordinary course.

3. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Hand over copy of the order.

(R. BASANT)
Judge

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